

IN THE HIGH COURT OF KERALA AT ERNAKULAM

ITA.No. 1711 of 2009()

1. THE COMMISSIONER OF INCOME TAX,
... Petitioner

Vs

1. M/S.MUSLIM EDUCATIONAL SOCIETY,
... Respondent

For Petitioner :SRI.JOSE JOSEPH, SC, FOR INCOME TAX

For Respondent :SRI.ANIL D. NAIR

The Hon'ble MR. Justice C.N.RAMACHANDRAN NAIR
The Hon'ble MR. Justice K.SURENDRA MOHAN

Dated :04/10/2010

O R D E R

C.N.RAMACHANDRAN NAIR &
K. SURENDRA MOHAN, JJ.

I.T.A. NOS: 1711 OF 2009

Dated this the 4th October, 2010.

JUDGMENT

Ramachandran Nair, J.

The question raised in the department appeal is whether the unexplained cash credits taken as income under Section 68 qualifies for exemption under Section 10 (23C) and Section 11 of the Income Tax Act. We have heard standing counsel for the appellant and counsel appearing for the respondent-assessee.

After hearing both sides and after going through the orders we find that assessee is a charitable institution engaged in charity and running of educational institutions. Exemption is also seen granted for the entire income except in regard to the addition made by the Officer under Section 68. Tribunal has allowed the claim following the decision of the Delhi High Court in Director of Income Tax (Exemption) v. Raunaq Education Foundation (Delhi) 294 ITR 76. Since respondent assessee is entitled to exemption both under Section 11 as well as under Section 10(23C) we do not find any justification for separate treatment of unexplained cash credit treated as income under Section 68 of the Income Tax Act.

We do not find any ground to deviate from the view taken by the Delhi High Court in the above case. We therefore dismiss the department appeal.

C.N.RAMACHANDRAN NAIR

Judge

K. SURENDRA MOHAN

Judge

jj

